

REMARKS

Forty-two claims were originally filed in the present Application. Claims 1-42 currently stand rejected. Claims 11 and 31 are indicated to be allowable if amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph. Claims 1, 4, 6, 11, 21, 24, 26, 31, 41, and 42 are amended herein. In addition, a new claim 43 is added herein. Reconsideration of the Application in view of the foregoing amendments and the following remarks is respectfully requested.

Rejection under 35 U.S.C. §112, Second Paragraph

In paragraph 4 of the Office Action, the Examiner indicates that claims 1-42 are rejected as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the Examiner states that, in claims 1, 21, 41, and 42, the term “device software” is indefinite. Accordingly, Applicants herein amend claims 1, 21, 41, and 42 to recite “device software of said electronic device” to indicate “where the device software is coming from.”

In paragraph 4 of the Office Action, the Examiner also indicates that claims 4 and 24 are rejected as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the Examiner states that, in claims 4 and 24, the term “device” is indefinite. Accordingly, Applicants herein amend claims 4 and 24 to recite “said electronic device” to clarify the claim language.

In paragraph 4 of the Office Action, the Examiner further indicates that claims 11 and 31 are rejected as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner states that, in claims 11 and 31, it is unclear “where the request came from”. Accordingly, Applicants herein amend claims 11 and 31 to recite “a scheduling request from device software of said electronic device” to address the Examiner’s concerns. device software” to thereby indicate the source of the foregoing request.

In paragraph 4(b) of the Office Action, the Examiner states that there is “insufficient antecedent basis” for the limitation “from device software” in claims 1, 21, 41, and 42. Applicants respectfully traverse. Applicants submit that the claimed “from device software” is the first instance of this limitation in independent claims 1, 21, 41, and 42. Applicants submit that, as a plural noun form, this initial instance of “device software” is correctly recited without any preceding article. In view of the foregoing remarks and amendments, Applicants believe that the Examiner’s rejections are addressed, and respectfully request that the rejections under 35 U.S.C. §112, second paragraph, be withdrawn so that claims 1-42 may issue in a timely manner.

35 U.S.C. § 103(a)

In paragraph 5 of the Office Action, the Examiner rejects claims 1-9, 12-13, 20-29, 32-33, and 40-42 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. US2004/0040025A1 to Lehtinen (hereafter Lehtinen)

in view of U.S. Patent No. 6,424,989 to Shaw (hereafter Shaw). The Applicants respectfully traverse these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a) which requires that three basic criteria must be met, as set forth in M.P.E.P. §2142:

"First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations."

The initial burden is therefore on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a). Applicants submit that the combination of Lehtinen and Shaw fails to teach a number of the claimed elements of the present invention. The Applicants therefore respectfully submit that the obviousness rejections under 35 U.S.C §103 are improper.

In contrast to Applicants' claimed invention, Lehtinen teaches a wireless communication system that selects a next "application session" or a next "activity block" "on the basis of a current "resource allocation situation" (see page 2, paragraphs 10-15). With regard to claim 1, the Examiner states that "Lehtinen fails to explicitly teach that the parameters of the request are being analyzed." Applicants' concur. The Examiner then points to Shaw to purportedly remedy these deficiencies.

In particular, the Examiner cites column 26, lines 27-47, stating that “Shaw teaches . . . using software to send request signals for resource allocation and that the parameters of the request signal being analyzed” Applicants respectfully disagree with the Examiner’s interpretation of Shaw. At column 26, lines 27-47, Shaw is limited to discussing a “call processor” that sends a request signal to an external device “when the internal functional resource for the forthcoming operation . . . become unavailable.” However, Shaw fails to mention analyzing any “request parameters” as claimed by Applicants. For at least the foregoing reasons, Applicants therefore submit that the rejections of claims 1, 21, 41, and 42 are improper.

With regard to dependent claims 2-4, 8, 22-24, and 28, in a prior Response to Office Action, Applicants requested the Examiner to provide references to support the rejections of claims 2-4, 8, 22-24, and 28, in light of the apparent use of Official Notice by the Examiner. However, without providing any additional references in support of the rejections, the Examiner again rejects claims 2-4, 8, 22-24, and 28.

Applicants respectfully traverse the Examiner’s view that the foregoing limitations would have been obvious to one skilled in the art at the time of the invention. Applicants therefore respectfully request the Examiner to cite specific references in support of these rejections, and failing to do so, to reconsider and withdraw the rejections of claims 2-4, 8, 22-24, and 28, so that these claims may issue in a timely manner.

Furthermore, the Court of Appeals for the Federal Circuit has held that “obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination.” In re Geiger, 815 F.2d 686, 688, 2 U.S.P.Q.2d 1276, 1278 (Fed. Cir. 1987). Applicants submit that there is no teaching of a combination that would result in Applicant’s invention, and therefore the obviousness rejection under 35 U.S.C §103 is not proper.

Applicants submit that the cited references, in combination with the Official Notice, do not suggest a combination that would result in Applicants’ invention, and therefore the obviousness rejections under 35 U.S.C §103 are improper. Applicants therefore respectfully request the Examiner to cite references in support of the Official Notice, and to also indicate where an explicit teaching to combine the cited reference may be found. Alternately, the Applicants request that the Examiner reconsider and withdraw the rejections of claims 2-4, 8, 22-24, and 28 under 35 U.S.C §103.

With regard to claim 42, “means-plus-function” language is utilized to recite elements and functionality similar to those recited in claims 1 and 21 which are further discussed above. Applicants therefore incorporate those remarks by reference with regard to claim 42. In addition, the Courts have frequently held that “means-plus-function” language, such as that of claim 42, should be construed in light of the Specification. More specifically, means-plus-function claim elements should be *construed to cover the corresponding structure, material or acts described in the specification*, and equivalents thereof. Applicants

respectfully submit that, in light of the substantial differences between the teachings of the references and Applicants' invention as disclosed in the Specification, claim 42 is therefore not anticipated or made obvious by the teachings of Lehtinen and Shaw.

Regarding the Examiner's rejection of dependent claims 2-9, 12-13, 22-29, and 32-33, for at least the reasons that these claims are directly or indirectly dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 2-9, 12-13, 22-29, and 32-33, so that these claims may issue in a timely manner.

In addition, with regard to amended claims 6 and 26, Applicants submit that neither Lehtinen nor Shaw teach "request parameters" that simultaneously include both "a resource requirement" and "an execution interval for performing said task, said execution interval being a maximum time period within which said task must be executed", as recited in dependent claims 6 and 26.

For at least the foregoing reasons, the Applicants submit that claims 1-9, 12-13, 20-29, 32-33, and 40-42 are not unpatentable under 35 U.S.C. § 103 over Lehtinen and Shaw, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 1-9, 12-13, 20-29, 32-33, and 40-42 under 35 U.S.C. § 103.

In paragraphs 21 and 22 of the Office Action, the Examiner rejects claims 10 and 30 under 35 U.S.C. § 103(a) as being unpatentable over Lehtinen in view of Shaw, and further in view of U.S. Patent No. 5,274,684 to Pearson (hereafter Pearson). The Applicant respectfully traverses these rejections for at least the following reasons.

Applicant maintains that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a). As discussed above, for a valid *prima facie* case of obviousness under 35 U.S.C. § 103(a), the prior art references when combined must teach or suggest all the claim limitations." The initial burden is on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Applicants respectfully traverse the Examiner's assertion that modification of the device of Lehtinen according to the teachings of Pearson would produce the claimed invention. Applicants submit that Lehtinen in combination with Pearson fail to teach a number of the claimed elements of the present invention. Furthermore, Applicants also submit that neither Lehtinen nor Pearson contain teachings for combining the cited references to produce the Applicants' claimed invention. The Applicants therefore respectfully submit that the obviousness rejections under 35 U.S.C §103 are improper.

With regard to claims 10 and 30, the Examiner concedes that Lehtinen "fails to explicitly teach wherein said allocation manager analyzes said execution interval" Applicants concur. The Examiner then points to Pearson to

purportedly remedy these defects. Applicants respectfully disagree with the Examiner's interpretation of Pearson.

As cited by the Examiner in support of the foregoing rejections of Applicants' claimed "symmetrical execution-interval specification requirement" in claims 10 and 30, Pearson only teaches an "I/O processor" that includes "a CLOCK signal defined to be a symmetrical clock signal" (column 6, lines 25-26). Applicants respectfully submit a simple "clock signal" can not be analogized to a symmetrical "execution interval" that defines a time period within which a given task must be executed.

Applicants submit that Pearson nowhere discusses an "execution interval" required for completing a given task, and therefore never discloses any type of requirement that such execution interval be "symmetrical", as claimed by Applicants. On page 11 of the Office Action, the Examiner states with regard to Pearson that "the clock signal is what generates the symmetrical signals having the periods (intervals). Applicants submit that claims 10 and 30 are directed towards a symmetrical "*execution interval*", not simply the "symmetrical signals" referred to by the Examiner on page 11.

For at least the foregoing reasons, the Applicants submit that claims 10 and 30 are not unpatentable under 35 U.S.C. § 103 over Lehtinen and Shaw in view of Pearson, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 10 and 30 under 35 U.S.C. § 103.

In paragraphs 23 and 24 of the Office Action, the Examiner rejects claims 14-19 and 34-39 under 35 U.S.C. § 103(a) as being unpatentable over Lehtinen in view of Shaw, and further in view of U.S. Patent No. 6,567,840 to Binns et al. (hereafter Binns). The Applicant respectfully traverses these rejections for at least the following reasons.

Applicant maintains that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a). As discussed above, for a valid *prima facie* case of obviousness under 35 U.S.C. § 103(a), the prior art references when combined must teach or suggest all the claim limitations." The initial burden is on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Regarding the Examiner's rejection of dependent claims 14-19 and 34-39, for at least the reasons that these claims are directly or indirectly dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 14-19 and 34-39, so that these claims may issue in a timely manner.

Furthermore, claims 16 and 36 recite that "said scheduling manager references a ready-to-run table" The Examiner cites FIG. 2 of Lehtinen in support of the rejections of claims 16 and 36. Applicants submit that FIG. 2 nowhere teaches a "ready-to-run table", and respectfully request the Examiner to

provide a more specific explanation for the rejection of claims 16 and 36, or in the alternative, to allow claims 16 and 36 so that these claims may issue in a timely manner.

In addition, claims 18 and 38 recite that “said scheduling manager references a resources-consumed table . . . , said scheduling manager terminating said task when an allocated-resource limit is reached.” The Examiner again cites FIG. 2 of Lehtinen in support of the rejections of claims 18 and 38. Applicants submit that FIG. 2 nowhere teaches a “resources-consumed table” or “terminating said task when an allocated-resource limit is reached,” as claimed by Applicants. Applicants therefore respectfully request the Examiner to provide a more specific explanation for the rejection of claims 18 and 38, or in the alternative, to allow claims 18 and 38 so that these claims may issue in a timely manner.

Allowable Subject Matter

In paragraph 30, the Examiner indicates that claims 11 and 31 would be allowable if amended to overcome the rejections under 35 U.S.C. 112, second paragraph. As discussed above, Applicants therefore herein amend claims 11 and 31 to thereby place claims 11 and 31 in condition for immediate allowance.

New Claim 43

The Applicants herein submit an additional new claim 43 for consideration by the Examiner in the present Application. The new claim 43 recites a specific

detailed embodiment for utilizing the Applicants' invention, as disclosed and discussed in the Specification. Applicants submit that newly-added claim 43 contains a number of limitations that are not taught or suggested by the cited references. Applicants therefore respectfully request the Examiner to consider and allow new claim 43, so that this claim may issue in a timely manner.

Examiner Interview Summary

On November 9, 2004, Applicants' representative, Gregory Koerner, held an Examiner's Interview with Examiner Kenneth Tang to discuss various differences between the cited references and Applicants' claimed invention. Applicants argued that neither Lehtinen nor Shaw teach "request parameters" that simultaneously include both "a resource requirement" or "an execution interval for performing said task, said execution interval being a maximum time period within which said task must be executed", as recited in dependent claims 6 and 26. In addition, Applicants argued that Pearson nowhere discusses an "execution interval" for performing a given task, and therefore never discloses any type of requirement that such execution interval be "symmetrical", as claimed by Applicants in claims 10 and 30. Finally, Applicants argued that the cited references nowhere teach "*terminating said task* when an allocated-resource limit is reached" as recited in dependent claims 18 and 38.

Summary

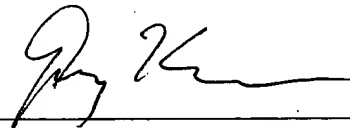
Applicants submit that the foregoing amendments and remarks overcome the Examiner's rejections under 35 U.S.C. §112 and 35 U.S.C. §103(a). Because the cited references, or the Examiner's citations thereto, do not teach or suggest the claimed invention, and in light of the differences between the claimed invention and the cited prior art, Applicants therefore submit that the claimed invention is patentable over the cited art, and respectfully request the Examiner to allow claims 1-43 so that the present Application may issue in a timely manner. If there are any questions concerning this amendment, the Examiner is invited to contact the Applicants' undersigned representative at the number provided below.

Respectfully submitted,

Date: _____

1/11/05

By: _____



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